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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID EUGENE NUTT,

Defendant and Appellant.

F078815

(Super. Ct. No. BF173963A)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. Colette M. Humphrey, Judge.

Michele A. Douglass, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Franson, Acting P. J., Snauffer, J., and DeSantos, J.

## **STATEMENT OF APPEALABILITY**

This appeal is from a final judgment after a no contest plea and finally disposes of all issues between the parties. (Pen. Code, § 1237, subd. (a);<sup>1</sup> Cal. Rules of Court, Rule 8.204(a)(2)(B).)

## **STATEMENT OF THE CASE**

In a complaint filed on October 3, 2018, appellant David Eugene Nutt was charged in count 1 with felony infliction of corporal injury on his girlfriend (§ 273.5, subd. (a)) with a great bodily injury enhancement (§ 12022.7, subd. (e)), and in count 2 with misdemeanor possession of methamphetamine. (Health & Saf. Code, § 11377, subd. (a).)

On November 28, 2018, Nutt entered a no contest plea to the corporal injury charge and admitted the great bodily injury enhancement in exchange for a four year sentence, a stayed sentence on the enhancement, and dismissal of the possession of methamphetamine charge.

At the December 12, 2018, sentencing hearing, in a closed hearing, Nutt moved to withdraw his plea. The motion was denied. In open court, the court then imposed the upper term of four years in state prison on the corporal injury charge and stayed a three year sentence for the great bodily injury enhancement. Nutt was given custody credit of 83 days. Restitution fines, court security assessment, and criminal conviction assessment were waived. A protective order was issued pursuant to section 273.5, subdivision (j).

A timely notice of appeal was filed on February 5, 2019.

## **STATEMENT OF FACTS**

On October 1, 2018, officers were dispatched to a hotel regarding an unknown situation. Upon arrival, an officer observed a female victim on the floor, screaming. She had blood on her blouse and was holding her mouth. She told the officer, “He hit me,” identifying Nutt as her assailant. Her jaw was broken.

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

Nutt told the officer he and the woman had been in a sexual relationship for two years. He said they argued over money and he pushed her.

### **APPELLATE COURT REVIEW**

Nutt's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating Nutt was advised he could file his own brief with this court. By letter on June 27, 2019, we invited Nutt to submit additional briefing. To date, he has not done so.

After independently reviewing the entire record, we have concluded there are no reasonably arguable legal or factual issues.

### **DISPOSITION**

The judgment is affirmed.